

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 14-10163-NMG
	)	
(5) DAVID SIMMONS,	)	
Defendant.	)	

**FINAL ORDER OF FORFEITURE**

**GORTON, D.J.**

WHEREAS, on June 5, 2014, a federal grand jury sitting in the District of Massachusetts returned a one-count Indictment charging defendant David Simmons (the "Defendant"), and others, with Conspiracy to Distribute and to Possess With Intent to Distribute Marijuana, in violation of 21 U.S.C. § 846 (Count One);

WHEREAS, the Indictment also contained a forfeiture allegation, pursuant to 21 U.S.C. § 853, which provided notice that the United States sought the forfeiture, upon conviction of the Defendant, jointly and severally, of the offense alleged in Count One of the Indictment, of any property constituting, or derived from, any proceeds the defendants obtained, directly or indirectly, as a result of such offense, and/or any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation. The property to be forfeited included, but was not limited to at least \$8 million in United States currency.

WHEREAS, on September 9, 2014, the United States filed a Bill of Particulars for Forfeiture of Assets, providing notice of specific property that the United States intended to forfeit pursuant to 21 U.S.C. § 853 as a result of violations of 21 U.S.C. § 846;

WHEREAS, the Bill of Particulars identified any property constituting, or derived from, any proceeds the defendants obtained, directly or indirectly, as a result of such offense, and/or any property used or intended to be used, in any manner or part, to commit, or to facilitate the

commission of, such violation, including but not limited to the following:

- a. one 2006 Infiniti G35, bearing vehicle identification number JNKCV51EX6M512936, seized from David Simmons in Fairhaven, Massachusetts on May 28, 2014,

(collectively, the "Vehicle");

WHEREAS, the Indictment further provided that, if any of the above-described forfeitable property, as a result of any act or omission by the Defendant, (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be divided without difficulty, the United States is entitled to seek forfeiture of any other property of the Defendant, up to the value of such assets, pursuant to 21 U.S.C. § 853. Such property specifically included, without limitation:

- a. the real property located at 159 Bay State Road, Rehoboth, Massachusetts, including all buildings and appurtenances thereon, more particularly described in a deed recorded at Book 18756, Page 111 at the Northern Bristol County Registry of Deeds;<sup>1</sup>

WHEREAS, on October 23, 2015, after a five-day jury trial, a jury found the Defendant guilty on Count One of the Indictment;

WHEREAS, on November 20, 2015, this Court issued a Preliminary Order of Forfeiture against the Vehicle, pursuant to 21 U.S.C. § 853, and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure;

WHEREAS, on March 15, 2016, a sentencing hearing was held whereby this Court sentenced the Defendant to 51 months incarceration, to be followed by a term of 3 years supervised release, and ordered the Defendant to pay a special assessment of \$100;

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<sup>1</sup> The Court denied the forfeiture of this Real Property. See Docket No. 96.

WHEREAS, in addition, this Court ordered the Defendant to forfeit the Vehicle, pursuant to the terms of the Preliminary Order of Forfeiture;

WHEREAS, notice of the Preliminary Order of Forfeiture was sent to all interested parties and published on the government website [www.forfeiture.gov](http://www.forfeiture.gov) for thirty (30) consecutive calendar days, beginning on March 5, 2016, and ending on April 3, 2016; and

WHEREAS, no claims of interest in the Vehicle have been filed with the Court or served on the United States Attorney's Office, and the time within which to do so has expired.

ACCORDINGLY, it is hereby ORDERED, ADJUDGED, and DECREED that:

1. The United States Motion for a Final Order of Forfeiture is allowed.
2. The United States of America is now entitled to the forfeiture of all right, title or interest in the Vehicle, and it is hereby forfeited to the United States of America pursuant to 21 U.S.C. § 853, and Rule 32.2(c) of the Federal Rules of Criminal Procedure.
3. All other parties having any right, title or interest in the Vehicle are hereby held in default.
4. The United States is hereby authorized to dispose of the Vehicle in accordance with applicable law.
5. This Court shall retain jurisdiction in the case for the purpose of enforcing this Order.



Nathaniel M. Gorton  
United States District Judge

Dated: 10/4/16